

REMARKS

Reconsideration of the present application is respectfully requested. Claims 1-53 are pending. Claims 1, 5-29, 41-48, 50 and 53 stand rejected, and claims 2-4, 30-40, 49, 51 and 52 have been allowed. Claims 54-63 are new. Applicants thank the Examiner for his prompt indication of allowable subject matter. As explained below, the claim rejections are improper and should be withdrawn. All pending claims are allowable and a prompt notice of allowance as to all claims is respectfully requested.

Claims 1, 5-11, 41-48, 50 and 53 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gillmore (US 5,832,676) in view of Brent (US 5,695,443). The Action acknowledges that Gillmore does not expressly disclose numerous features of the claims, and the Action attempts to cure these acknowledged deficiencies by combining Brent into Gillmore. However, it is well settled that a rejection under §103 can only be properly asserted if there is a motivation or suggestion to modify the reference or to combine the reference teachings in the manner asserted. MPEP 2142 In this case, the asserted motivation is “to provide more accurate control of the radiation emission from the medical devices.” However, this motivation is premised on the mistaken impression that it is the *Gillmore* reference that describes a high energy radiation source in the building. This is not the case. Rather, properly considering the references for that they actually disclose, the motivation to combine is not presented. The rejections are therefore improper for failure to establish a *prima facie* case of obviousness, and they should be withdrawn.

The action mistakenly refers to column 4, lines 55-69 of *Gillmore* for the contention that *Gillmore* describes an X-ray or CAT scan medical device in the interior space of the building

100. (“[M]edical or scientific personnel are required to physically be in the interior space preparatory to operation of the high energy radiation source (see col. 4, lines 55-69) inherently having medical devices to perform the X-ray or CAT scan.” (Office Action paragraph 2, citation in original)) In actuality, it is column 4 lines 55-69 of *Brent* that refers to medical or scientific personnel that are “required to physically be in the interior space preparatory to operation of the high energy radiation source.” The cited portion of Gillmore simply refers to the provision of doors and walkways and the construction of the base 240. Applicants have reviewed the remainder of Gillmore and find no reference to a medical device having a high energy radiation source. Because Gillmore lacks the asserted high energy radiation source, there can be no proper motivation to more accurately control radiation therefrom. Accordingly, there is no motivation to modify Gillmore in the manner asserted and the rejection is improper.

At least because a proper motivation for modifying Gillmore is lacking, the Action fails to set forth a *prima facie* case of obviousness. While this obviates any need to consider whether the asserted combination actually teaches all the elements as required, the Action does not mention certain aspects of the various claims. For example, there is no reference to medical equipment mounted on a separately removable portion of a module for removal and replacement of the medical equipment without substantially disturbing the barrier (claims 46 or 48). The action also fails to point to area outside the central treatment area adapted to form rooms suitable for human occupation, for example as recited in claim 10. If the rejections are not withdrawn, Applicants respectfully request explanation as to how the references are being applied to teach all of the elements of the claims.

The remaining rejections of claims 12-19 and 20-29 are also based on the asserted combination of Brent into Gillmore. For at least the reasons described above, the asserted combination is improper and these rejection should also be withdrawn.

Claims 54-63 have been added and define further inventions of the present application.

In view of the forgoing, reconsideration of the present application and withdrawal of the rejections is respectfully requested. All claims are in condition for allowance. The undersigned would welcome a telephone call from the Examiner to discuss any matters that would expedite examination.

Respectfully submitted,

By 

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